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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/416,278
Filing Date: October 14, 1999
Appellant(s): TEMPLETON, BRADLEY S.

Templeton, Bradley S.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 12/13/08 appealing from the Office action mailed 02/29/2008.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is incorrect. A correct statement of the status of the claims is as follows:

Claim 96 is rejected under 35 USC 112, second paragraph.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is substantially correct. The changes are as follows: while the 35 USC 112, second paragraph, rejection of claim 92 was resolved via an Interview on 3/14/2008, the 35 USC 112, second paragraph, rejection of claim 96 was not resolved. Therefore, this rejection is still outstanding and presented below.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Gisby et al. (U.S. 6,044,146)

Yacenda et al. (U.S. 5,515,426)

Vardi et al. (U.S. 6,389,127)

Vaios (U.S. 6,272,216)

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 96 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 96 recites the limitation “the phone”. There is insufficient antecedent basis for this limitation in the claim. Clarification is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 88-89 and 91 are rejected under 35 U.S.C. 102(e) as being anticipated by Gisby et al. (U.S. 6,044,146).

As per claim 88, Gisby et al. teaches a method comprising:

transmitting or receiving a first request for a first real-time meeting between a requester and a first target, the requester and the first target being individuals (See figures 2 and 3, column 2, lines 33-39, column 3, lines 1-14, wherein incoming calls are received because a caller needs a meeting with a target agent));

determining that the first target is unavailable, using a computing system (See column 3, lines 1-5, column 4, lines 55-64, column 5, lines 5-10, column 6, lines 37-44, column 7, lines 1-20 and 39-55, which discusses availability);

waiting until the first target changes from being unavailable to being available (See figures 2-3, column 5, lines 20-40, wherein the request is queued. See column 3, lines 1-15, column 4, lines 55-67, column 5, lines 35-40, column 6, lines 35-50, column 7, lines 1-20 and 39-55, wherein when the target is available, the meeting can be initiated);

when the first target is available, determining if the requester is available (See column 5, lines 20-40 and 45-62, column 6, lines 35-50, and column 7, lines 1-10 and 32-52, wherein the availability status of R-A (the requester) is based on priority and thus the requester can be gotten based on this status);

if the requester is available, then initiating the first real-time meeting (See column 3, lines 1-15, column 4, lines 55-67, column 5, lines 35-40, column 6, lines 35-50, column 7, lines 1-20 and 39-55, wherein both parties are available and the meeting is initiated based on the availability and priority of the requester and the availability of the agent).

Examiner notes that the limitation “if the requester is unavailable, then waiting until a time the requestor becomes available” does not occur in methods where the requester is available in the previous limitations. Therefore, since Gisby et al. teaches that the requester is available, the limitation “if the requester is unavailable, then waiting until a time the requestor becomes available” is not required.

As per claim 89, claim 89 is directed to and further limits the limitation “if the requester is unavailable, then waiting until a time the requestor becomes available” of claim 88. Examiner notes that the limitation “if the requester is unavailable, then waiting until a time the requestor becomes available” does not occur in methods where the requester is available in the previous

limitations. Therefore, since Gisby et al. teaches that the requester is available, the limitation "if the requester is unavailable, then waiting until a time the requestor becomes available" is not required, and therefore the limitations of claim 89 further do not occur.

As per claim 91, Gisby et al. teaches transmitting or receiving a second request for a second real-time meeting between a second requestor and the first target, the second request being transmitted or received between a time the first request is transmitted or received and a time the first real-time meeting is initiated and initiating the second real-time meeting prior to the first real-time meeting if the second requester becomes available before the first requester (See figures 2-3, column 3, lines 1-20, column 5, lines 20-40, column 6, lines 35-45, column 7, lines 1-15 and 35-50, wherein a second request for an agent is received, the request is queued, and wherein a queue of callers requesting an agent is formed. There is one agent that takes multiple calls from the queue and thus the agent is the common party).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3-8, 54-55, 72-79, 81-82, 84-85, and 87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gisby et al. (U.S. 6,044,146) in view of Yacenda et al. (U.S. 5,515,426).

As per claim 1, Gisby et al. teaches a computer-implemented method for the intermediation of real time meetings, comprising:

receiving an indication by a requester system that a requester (R-A) wants to request a real-time meeting M-A with a target T-A (See figures 2 and 3, column 2, lines 33-39, column 3, lines 1-14, wherein incoming calls are received because a caller needs a meeting with a target agent);

sending to a decider system (D) a request to conduct a real time meeting M-A (See figures 2 and 3, column 5, lines 1-20 and 40-55, wherein a system receives the request for the meeting and queues the request);

queuing the request for the meeting M-A by the decider system (See figures 2-3, column 5, lines 20-40, wherein the request is queued);

receiving by the decider system (D) an availability status of T-A (See column 3, lines 1-5, column 4, lines 55-54, column 5, lines 5-10, column 6, lines 37-44, column 7, lines 1-20 and 39-55, which discusses availability);

receiving by the decider system (D) an availability status of R-A (See column 5, lines 20-40 and 45-62, column 6, lines 35-50, and column 7, lines 1-10 and 32-52, wherein the availability status of R-A (the requester) is based on priority and thus the requester can be gotten based on this status);

receiving an indication by the requester system that a requester (R-B) wants to request a real-time meeting M-B with target T-B, the meeting M-B to be disjoint in time with the meeting M-A; and such that one of the parties to M-A (R-A or T-A), known as the 'common party' is also the same as one of the parties to M-B (R-B or T-B) and thus there are only three distinct parties,

the decider D being associated with the common party (See figures 2-3, column 3, lines 1-20, column 5, lines 20-40, column 6, lines 35-45, column 7, lines 1-15 and 35-50, wherein a second request for an agent is received, the request is queued, and wherein a queue of callers requesting an agent is formed. There is one agent that takes multiple calls from the queue and thus the agent is the common party);

sending to the decider system (D) a request to conduct a real time meeting M-B (See figures 2 and 3, column 5, lines 1-20 and 40-55, wherein a system receives the request for the meeting and queues the request);

queuing the request for the meeting M-B by the decider system, such that requests for at least two distinct meetings, disjoint in time are placed in the queue, so that multiple pending real time meetings for the common party are in the queue at the same time (See figures 2-3, column 5, lines 20-40, wherein the request is queued, and wherein a queue of callers requesting an agent is formed);

receiving by the decider system (D) an availability status of target T-B (See column 3, lines 1-15, column 4, lines 55-54, column 5, lines 5-10, column 6, lines 37-44, column 7, lines 1-20 and 39-55, which discusses availability);

receiving by the decider system (D) an availability status of the requester R-B (See column 5, lines 20-40 and 45-62, column 6, lines 35-50, and column 7, lines 1-10 and 32-52, wherein the availability status of R-A (the requester) is based on priority and thus the requester can be gotten based on this status);

initiating, by the decider, one of the two meetings M-A and M-B by connecting the common party and the other party to that meeting when the common party and that other party

are mutually available (See column 3, lines 1-15, column 4, lines 55-67, column 5, lines 35-40, column 6, lines 35-50, column 7, lines 1-20 and 39-55, wherein both parties are available and the meeting is initiated based on the availability and priority of the requester and the availability of the agent); and

dequeuing the request for a meeting (See at least column 5, lines 1-10, column 8, lines 25-30, wherein it is inherent that the call finishes and that the agent moves to the next requestor in the queue).

However, Gisby et al. does not expressly disclose that a possible availability status of the requester R-A or R-B includes not available.

Yacenda et al. discloses that the requestor (who called an unavailable target party) leaves his/her number for callback and then when the target party becomes available, the requestor is no longer available (and thus his/her status is unavailable) (See figures 24 and 24B, column 17, line 55-column 18, line 5, and column 19, lines 32-55, wherein a callback function is indicated, the party to be called back (the requester) is unavailable, and the meeting does not occur until both parties are available).

Both Gisby et al. and Yacenda et al. disclose systems teach telephone functions for connecting a call requester (calling party) and a call target. Gisby et al. specifically discloses systems where requesters are queued when targets are busy. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the call back function of Yacenda et al. in the system of Gisby et al. in order to more efficiently facilitate calls between users by eliminating "phone tag" situations and causing a user to be on hold for long periods of time.

As per claim 3, Gisby et al. teaches wherein a system of the target T-A is polled to determine the availability of target T-A (See column 5, lines 5-11, wherein the system knows if the target is logged in and busy).

As per claim 4, Gisby et al. teaches wherein the system of the target T-A pushes the availability status of target T-A to the decider system (See column 5, lines 5-11, column 7, lines 1-15 and 30-50, wherein the system knows if the target is busy based on status information established by the target).

As per claim 5, Gisby et al. teaches wherein a system of a party is polled to determine the party's availability (See column 5, lines 5-11, wherein the system knows if the target is logged in and busy).

As per claim 6, Gisby et al. teaches wherein the system of a party pushes the party's availability status to the decider system (See column 5, lines 5-11, column 7, lines 1-15 and 30-50, wherein the system knows if the target is busy based on status information established by the target).

As per claim 7, Gisby et al. teaches wherein mutual availability is determined by checking the availability of one of the target/requester pairs T-A/R-A or T-B/R-B and the target (See column 5, lines 5-11, wherein the system knows if the target is logged in and busy or available. Further, see column 3, lines 1-15, column 4, lines 55-67, column 5, lines 35-40, column 6, lines 35-50, column 7, lines 1-20 and 39-55, which discusses availability and priority of the requester).

As per claim 8, Gisby et al. teaches wherein a request is sent to a plurality of targets and mutual availability is determined when the requester and one of the plurality of targets is

available (See column 3, lines 1-15, column 4, lines 55-67, column 5, lines 35-40, column 6, lines 35-50, column 7, lines 1-20 and 39-55, wherein both parties are available and the meeting is initiated based on the availability and priority of the requester and the availability of the agent).

As per claim 54, Gisby et al. teaches displaying the availability status of one of the requesters R-A and R-B on the target system, along with an indication that one of the requesters R-A and R-B has requested a meeting (See column 6, lines 45-60, column 8, lines 25-45, wherein the target receives a pop-up concerning the requester).

As per claim 55, Gisby et al. teaches wherein the availability status is one of in, out, and unknown (See column 5, lines 5-11, wherein the system knows if the target is logged in. See also column 7, lines 1-10 and 30-57, which discusses further status information about a logged in agent).

As per claim 72, Gisby et al. teaches wherein the decider system a part of the system of the common party for whom it is responsible, and wherein the decider already knows the status of the common party for which it is responsible (The common party is construed as the agent. See figures 2 and 3, column 5, lines 1-20 and 40-55, which discuss the system of the agent(s). See column 5, lines 5-11, wherein the system knows if the target is logged in. See also column 7, lines 1-10 and 30-57, which discusses further status information about a logged in agent).

As per claim 73, Gisby et al. teaches wherein the decider system chooses to activate one of two real time meetings, where the parties for both meetings are available based on priority information provided by either party (See figure 3, column 5, lines 20-40, column 6, lines 35-55, column 7, lines 1-9 and 30-50, wherein availability is based on priority of the requester) or the

order in time in which the requests were made (See figure 2, column 4, line 54-column 3, line 11, which discusses FIFO).

As per claim 74, Gisby et al. teaches wherein the decider system chooses to activate one of two real time meetings, where the parties for both meetings are available, based on ranking information including manual ranking through a user interface presented to the common party (See column 6, lines 45-60, column 8, lines 25-45, wherein the target receives a pop-up concerning the requester and has the ability to bump the current call or finish the current call).

As per claim 75, Gisby et al. teaches wherein the decider system chooses to activate one of two real time meetings, where the parties for both meetings are available, based on priority information provided by either party (See figure 3, column 5, lines 20-40, column 6, lines 35-55, column 7, lines 1-9 and 30-50, wherein availability is based on priority of the requester).

As per claim 76, Gisby et al. teaches wherein the decider system chooses to activate one of two real time meetings, where the parties for both meetings are available, based on the order in time in which the requests were made (See figure 2, column 4, line 54-column 3, line 11, which discusses FIFO).

As per claim 77, Gisby et al. teaches wherein the decider system chooses to activate one of two real time meetings, where the parties for both meetings are available, based on relationship information about the parties based on party input or past history (see column 5, lines 60-67, wherein a customer database is used).

As per claim 78, Gisby et al. teaches wherein a non-common requester R-A or R-B is party to another, distinct meeting request (See figures 2-3, column 3, lines 1-20, column 5, lines 20-40, column 6, lines 35-45, column 7, lines 1-15 and 35-50, wherein a second request for an

agent is received, the request is queued, and wherein a queue of callers requesting an agent is formed).

As per claim 79, Gisby et al. teaches wherein a non-common target is party to another distinct meeting request (See figures 2-3, wherein there is a second agent with separate call handling).

As per claim 81, Gisby et al. teaches wherein if all parties become available at once, only one of the meetings M-A and M-B will occur immediately and the other meeting will remain queued (See figure 3, column 5, lines 20-40, column 6, lines 35-55, column 7, lines 1-9 and 30-50, wherein availability is based on priority of the requester, and thus the meeting with the higher priority will occur and the once with lesser priority will remain in the queue).

As per claim 82, Gisby et al. teaches wherein the common party is the target T-A and T-B (See figures 2-3, column 3, lines 1-20, column 5, lines 20-40, column 6, lines 35-45, column 7, lines 1-15 and 35-50, wherein there is one agent that takes multiple calls from the queue and thus the agent is the common party).

As per claim 84, neither Gisby et al. nor Yacenda et al. expressly disclose that the target is a specific individual selected by the requestor.

Both Gisby et al. and Yacenda et al. disclose systems teach telephone functions for connecting a call requester (calling party) and a call target. Gisby et al. specifically discloses systems where requesters are queued when targets are busy. Examiner takes official notice that it is old and well known in the telephone art for a calling party to request a specific individual when placing a call to a second organization, such as when a person calls a company and asks to speak with a certain manager. It would have been obvious to one of ordinary skill in the art at

the time of the invention to include requesting a certain target in the system of Gisby et al. in order to more efficiently facilitate calls between users by allowing a user to specifically reach the party he/she set out to call.

As per claim 85, Gisby et al. teaches wherein the target is a specific individual (See figures 2-3, column 3, lines 1-20, column 5, lines 20-40, column 6, lines 35-45, column 7, lines 1-15 and 35-50, wherein the target is an agent).

As per claim 87, Gisby et al. teaches wherein the target is any one of a group of targets (See figures 2-3, column 3, lines 1-20, column 5, lines 20-40, column 6, lines 35-45, column 7, lines 1-15 and 35-50, wherein there is one agent that takes multiple calls from the queue and thus the agent is the common party. There are multiple agents at the call center).

Claims 56-57 and 80 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gisby et al. (U.S. 6,044,146) in view of Yacenda et al. (U.S. 5,515,426) and in further view of Vaio (U.S. 6,272,216).

As per claim 56, Gisby et al. teaches an availability status of the target T-A (See column 3, lines 1-15, column 4, lines 55-54, column 5, lines 5-10, column 6, lines 37-44, column 7, lines 1-20 and 39-55, which discusses availability). However, neither Gisby et al. does nor Yacenda et al. expressly disclose displaying an availability status of the target T-A on the requester system, along with an indication that the requestor has requested a meeting with the target.

Vaio teaches displaying an availability status of the target T-A on the requester system, along with an indication that the requestor has requested a meeting with the target (See abstract, figure 2, column 4, lines 8-15, 35-58, column 5, lines 19-29, 38-39, and 53-67).

Gisby et al. and Yacenda et al. are in analogous art and it is obvious to combine these references for the reasons set forth above. Further, both Gisby et al. and Vaios disclose systems that connect requesters to agents using queuing methods. Vaios expressly discloses the requester side of these systems, wherein the requester may view status and other information about agents. It would have been obvious to one of ordinary skill in the art at the time of the invention to also allow the requester system to view availability data and meeting requests by the requester in order to more efficiently let the requester gain service in a more timely manner and to allow the requester to have greater control over the handling and routing of their calls. See column 1, lines 23-25 and column 4, lines 43-58 of Vaios.

As per claim 57, Gisby et al. teaches wherein the availability status is one of in, out, and unknown (See column 5, lines 5-11, wherein the system knows if the target is logged in. See also column 7, lines 1-10 and 30-57, which discusses further status information about a logged in agent).

As per claim 80, Gisby et al. teaches wherein the target has two or more real-time meetings in the queue (See figures 2-3, column 5, lines 20-40). However, neither Gisby et al. nor Yacenda et al. expressly disclose that the requester has two or more real-time meetings in the queue.

Vaios teaches that the requester has two or more real-time meetings in the queue (See abstract, column 4, lines 8-15, 43-58, column 5, lines 19-29 and 53-56, wherein multiple requests to multiple agents are queued by the same requester system).

Gisby et al. and Yacenda et al. are in analogous art and it is obvious to combine these references for the reasons set forth above. Further, both Gisby et al. and Vaios disclose systems

that connect requesters to agents using queuing methods. It would have been obvious to one of ordinary skill in the art at the time of the invention to also allow the requester system to create a queue of outgoing calls while waiting for an agent in order to more efficiently let the requester gain service in a more timely manner and to allow the requester to have greater control over the handling and routing of their calls. See column 1, lines 23-25 and column 4, lines 43-58 of Vaios.

Claims 83, 86, and 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gisby et al. (U.S. 6,044,146) in view of Vaios (U.S. 6,272,216).

As per claims 83 and 86, Gisby et al. does not expressly disclose that the common party is the requestor R-A and R-B and the common party participates in both of the meetings M-A and M-B.

Vaios teaches that the requester has two or more real-time meetings in the queue, and thus is the common party in both of the meetings (See abstract, column 4, lines 8-15, 43-58, column 5, lines 19-29 and 53-56, wherein multiple requests to multiple agents are queued by the same requester system).

Both Gisby et al. and Vaios disclose systems that connect requesters to agents using queuing methods. It would have been obvious to one of ordinary skill in the art at the time of the invention to also allow the requester system to create a queue of outgoing calls while waiting for an agent in order to more efficiently let the requester gain service in a more timely manner and to

allow the requester to have greater control over the handling and routing of their calls. See column 1, lines 23-25 and column 4, lines 43-58 of Vaios.

As per claim 90, Gisby et al. does not expressly disclose and Vaios discloses transmitting or receiving a second request for a second real-time meeting between the first requester and a second target, the second request being transmitted or received between a time the first request is transmitted or received and a time the first real-time meeting is initiated; and initiating the second real-time meeting prior to the first real-time meeting if the second target becomes available before the first target (See abstract, column 4, lines 8-15, 43-58, column 5, lines 19-29 and 53-56, wherein multiple requests to multiple agents are queued by the same requester system).

Both Gisby et al. and Vaios disclose systems that connect requesters to agents using queuing methods. It would have been obvious to one of ordinary skill in the art at the time of the invention to also allow the requester system to create a queue of outgoing calls while waiting for an agent in order to more efficiently let the requester gain service in a more timely manner and to allow the requester to have greater control over the handling and routing of their calls. See column 1, lines 23-25 and column 4, lines 43-58 of Vaios.

Claims 92-96 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gisby et al. (U.S. 6,044,146) in view of Yacenda et al. (U.S. 5,515,426) and in further view of Vardi et al. (U.S. 6,389,127).

As per claim 92, neither Gisby et al. nor Yacenda expressly disclose and Vardi et al. discloses wherein the non-common requester R-A or R-B that is party to another distinct meeting

request is a target in that meeting request (See column 7, line 50-column 8, line 5, wherein the requester of the conference becomes the target of a callback or someone to be conferenced in).

Gisby et al. and Yacenda et al. are in analogous art and it is obvious to combine these references for the reasons set forth above. Further, both Gisby et al. and Vardi et al. disclose systems that connect requesters to targets. It would have been obvious to one of ordinary skill in the art at the time of the invention to also allow the requester to be a target in another meeting request in order to allow the requester to have greater control over the handling and routing of their calls.

As per claim 93, Gisby et al. does not expressly disclose that the requestor R-A changes states from not available to available, while waiting for the real-time meeting M-A.

Yacenda et al. discloses that the requestor (who called an unavailable target party) leaves his/her number for callback and then when the target party becomes available, the requestor is no longer available (and thus his/her status is unavailable) (See figures 24 and 24B, column 17, line 55-column 18, line 5, and column 19, lines 32-55, wherein a callback function is indicated, the party to be called back (the requester) is unavailable, and the meeting does not occur until both parties are available). However, Yacenda et al. does not expressly discuss states changing from not available to available while waiting.

Vardi et al. discloses the state of parties changing while waiting for a meeting, beginning with being unavailable, and ending available (See column 7, line 50-column 8, line 5, wherein the conference member is unavailable and becomes available).

Gisby et al. and Yacenda et al. are in analogous art and it is obvious to combine these references for the reasons set forth above. Further, both Gisby et al. and Vardi et al. disclose

systems that connect requesters to targets. It would have been obvious to one of ordinary skill in the art at the time of the invention to also allow the requester to change states (and perform other tasks) while waiting for a meeting in order to allow the requester to more efficiently use his time.

As per claim 94, neither Gisby et al. nor Yacenda expressly disclose and Vardi et al. discloses teaches the requestor R-A participates in another distinct real-time meeting while waiting for the real-time meeting M-A (See column 7, line 50-column 8, line 5, wherein the requestor involves himself in another meeting while waiting for the other target to conference in).

Gisby et al. and Yacenda et al. are in analogous art and it is obvious to combine these references for the reasons set forth above. Further, both Gisby et al. and Vardi et al. disclose systems that connect requesters to targets. It would have been obvious to one of ordinary skill in the art at the time of the invention to also allow the requester to change states (and perform other tasks) while waiting for a meeting in order to allow the requester to more efficiently use his time.

As per claim 95, neither Gisby et al. nor Yacenda expressly disclose and Vardi et al. teaches wherein the requester R-A becomes available when the requestor R-A terminates a call (See at least column 7, line 50-column 8, line 5, wherein availability is based on termination of calls and where callback is initiated when a line is available).

Gisby et al. and Yacenda et al. are in analogous art and it is obvious to combine these references for the reasons set forth above. Further, both Gisby et al. and Vardi et al. disclose systems that connect requesters to targets. It would have been obvious to one of ordinary skill in the art at the time of the invention to indicate availability by the termination of a call in order to more efficiently connect calls based on the actual availability of the parties to be involved.

As per claim 96, neither Gisby et al. nor Yacenda expressly disclose and Vardi et al. teaches wherein the requester R-A and target T-A are both available when they are both off of the phone (See at least column 7, line 50-column 8, line 5, wherein availability is based on termination of calls and where a user is available when not on the phone (i.e. they are off the phone).

Gisby et al. and Yacenda et al. are in analogous art and it is obvious to combine these references for the reasons set forth above. Further, both Gisby et al. and Vardi et al. disclose systems that connect requesters to targets. It would have been obvious to one of ordinary skill in the art at the time of the invention to indicate availability by the users not being on the in order to more efficiently connect calls based on the actual availability of the parties to be involved.

(10) Response to Argument

Appellant presents the following arguments:

1) As per claims 88-89 and 91, Appellant disagrees that conditional language is equivalent to optional language and that Examiner erred in disregarding the limitation “if the requestor is unavailable, then [...]” (pages 11-16 of the Appeal Brief);

2) As per claim 91, Appellant argues that Examiner has not properly interpreted the claim terms “requestor becomes available” or “becomes available” by construing the caller reaching the end of a queue as becoming available. Appellant argues that this interpretation contradicts the use of the term within the specification. Further, Appellant argues that the progression in the queue is as a result of the availability of the agent, not the caller (the caller is always available while in the queue). Thus, the prior art does not teach or suggest “initiating the second real-time

meeting prior to the first real-time meeting if the second requestor becomes available [...]” (at least pages 16-17 of the Appeal Brief);

3) As per claim 1, Appellant disagrees that the availability status of the claims is taught by the priority ranking among requestors of the prior art and that the prior art does not include the availability status of not available;

4) As per claim 55, Appellant argues that the prior art does not teach availability status as being “one of in, out, and unknown” as priority does not teach availability status;

5) There is not proper motivation and it is not obvious to combine the prior art as required to establish a prima facie case for rejection under 35 USC 103(a) because the combination of prior art is a non-workable system. Adapting the teachings of Gisby to incorporate the teachings of Yacenda would change the principle operation of Gisby (it would require all callers of Gisby to be on the same PBX);

6) As per claim 3 and 5, Appellant asserts that the Examiner has misinterpreted the term poll and asserts the prior art does not teach polling as a specific type of communication mode, as shown by the dictionary and encyclopedia definitions on pages 37-38 of the Appeal Brief;

7) As per claims 4 and 6, Appellant argues that the prior art does not teach or suggest pushing of status information to the decider system;

8) As per claim 78, Appellant argues that the prior art does not teach or suggest that the caller be party to more than one meeting request;

9) As per claim 84, Appellant argues that Examiner’s Official notice contradicts the teachings of Gisby and the prior art teaches away from Examiner’s proposed combination;

10) As per claims 56-57, Appellant argues that there is not reasonable expectation of success in combining the features of Vaios that display the availability status of the target with the features of Gisby since it is not known which target the requestor will be connected to while the requester is waiting;

11) As per claim 83, Appellant argues that none of the prior art teaches that the common party participates in both of the meeting M-A and M-B;

12) As per claims 78 and 92, Appellant argues that none of the prior art teaches distinct meeting requests;

13) As per claim 93, Appellant argues that Vardi et al. does not teach “wherein the requester R-A changes states from not available to available, while waiting for the realtime meeting M-A”;

14) As per claim 94, Appellant argues that Vardi et al. does not teach “wherein the requestor R-A participates in another distinct meeting”.

In response to argument (1), Examiner disagrees. First, Examiner did not disregard the limitation. Examiner considered each and every limitation during claim analysis in order to determine claim scope. Per MPEP 2106(II)C, claim analysis is used to identify the boundaries of the protection sought by the applicant and to understand how the claims relate to and define what the applicant has indicated is the invention. USPTO personnel must first determine the scope of a claim by thoroughly analyzing the language of the claim before determining if the claim complies with each statutory requirement for patentability. See *In re Hiniker Co.*, 150 F.3d 1362,

1369, 47 USPQ2d 1523, 1529 (Fed. Cir. 1998). With respect to process claims, as is the case with claim 88, the claim limitations will define steps or acts to be performed.

The **subject matter** of a properly construed claim is defined by the terms *that limit its scope*. It is **this subject matter that must be examined**. However, claim scope *is not limited by claim language that suggests or makes optional but does not require steps to be performed, or by claim language that does not limit a claim to a particular structure*. Thus, in this case, the if language utilized in the claim suggests but does not require certain steps to be performed when the claim scope is analyzed. Since this is a process claim, there is no structure that makes it necessary for a computer or other entity to be capable of performing such an act. When performing the process, only one of the “if” statements can occur since it is not possible to satisfy that a requestor is both available and unavailable at the same time. Thus, when properly construing the claim scope, only one if statement can limit the claim language in a given implementation.

Gisby et al. teaches that **if** the requester is available, **then** initiating the first real-time meeting. See column 3, lines 1-15, column 4, lines 55-67, column 5, lines 35-40, column 6, lines 35-50, column 7, lines 1-20 and 39-55, wherein both parties are available and the meeting is initiated based on the availability and priority of the requester and the availability of the agent. Since the art satisfies that the requester is available, the condition “if the requester is unavailable” would not occur in this implementation of the method.

In response to argument (2), Examiner disagrees. Examiner first points out that Appellant relies heavily on the specification while arguing the language “becomes available” (see pages 18-23 of the Appeal Brief where sections of the specification are listed to support

Appellants argument that the Examiner's interpretation of this language is incorrect). Examiner notes although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Claim 91 recites "initiating the second real-time meeting prior to the first real-time meeting if the second requester becomes available before the first requester". Examiner notes that the claim does not specify the perspective of the claim (i.e. the claim in the broadest reasonable interpretation means that the first or second requesters become available to (or turns out to be accessible to) the target). The claim further does not recite how one becomes available or how this availability is detected. Thus, the interpretation that the requester is accessible to the target meets the broadest reasonable interpretation of the claim.

Gisby teaches receiving a second request for a second real-time meeting between a second requestor and the first target, wherein the second request is received after the first request. The second real-time meeting is initiated prior to the first real-time meeting if the second requester becomes available before the first requester. See figures 2-3, column 3, lines 1-20, column 5, lines 20-40, column 6, lines 35-45, column 7, lines 1-15 and 35-50, wherein a second request for an agent is received, the request is queued, and wherein a queue of callers requesting an agent is formed. There is one agent that takes multiple calls from the queue and thus the agent is the common party. Specifically, the requests are queued in terms of priority and thus, when the second request has a higher priority, it is placed in queue ahead of the first request. Thus, the second requester is available (or is accessible) to the common party (the target) before the first requestor based on the prioritized queue.

In response to argument (3), Examiner disagrees. Examiner again points out that Appellant relies on the specification while arguing the claim language (see pages 31-32 of the Appeal Brief). Examiner notes although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Examiner further notes that Appellant provides definitions as evidentiary support for the argued terms from dictionaries and encyclopedias. It is noted that these references post date the filing date of this application (See page 30 of the Appeal Brief).

The term availability, in its broadest reasonable interpretation, is ready for use or service. Status, in its broadest reasonable interpretation, can mean either position in relation to others or a state or condition. Therefore, availability status is the readiness of a requester (in terms of their condition). This readiness can be their position in relation to others. This readiness can also include the condition of available or not available. This is a consistent interpretation based on the art rejection below. Gisby et al. discloses that the user is connected to the system and in queue based on their priority (See column 5, lines 20-40 and 45-62, column 6, lines 35-50, and column 7, lines 1-10 and 32-52). Therefore, the user has the status of available (able to be connected with) and positioned in the queue based on the user's priority. The requester can be connected with based on this status, where the user's status includes the conditions of position in queue and availability indicating available. Examiner points out that she did not rely on Gisby to teach the condition of not available, as asserted become with respect to claim 1. Rather, Yacenda et al. was relied upon to teach this limitation.

As to examiner's assertion that Yacenda et al. does not disclose that the requestor (who called the unavailable target party) leaves his/her number for callback and then when the target party becomes available, the requestor is no longer available, Examiner maintains this assertion. Yacenda discloses a calling party (requester) and a callback party (target). The calling party calls the target and when the target is unavailable or busy, the calling party leaves information for the target to call back. Thus, the target becomes the callback party. See column 17, line 55-column 18, line 5, and column 19, lines 32-55. Then when the call back party calls the calling party, it is determined if the calling party is busy or unavailable. See specifically column 19, lines 32-55. Further, Examiner agrees with Appellant that, in Yacenda et al., hanging up a phone and setting call back options does not necessarily make the caller unavailable (See pages 32-33 of the Appeal Brief). See again column 19, lines 32-55, where the callback party checks the availability of the calling party/requester.

In response to argument (4), Examiner respectfully disagrees. Availability status is discussed above with respect to argument (3). Gisby et al. teaches that the availability status of one of the requesters is displayed via pop-up to the target. See column 6, lines 45-60, column 8, lines 25-45, wherein the target receives a pop-up concerning the requester. The claim recites that the "availability status is one of in, out, or unknown". Examiner notes that only one of the statuses is required by the claim. Gisby et al. specifically discloses that the requester is present/available and further discusses status information about a logged in agent. See column 5, lines 5-11, wherein the system knows if the target is logged in. See also column 7, lines 1-10 and 30-57, which discusses further status information about a logged in agent.

In response to argument (5), examiner respectfully disagrees. Examiner utilized Yacenda et al. to teach the concept that a possible availability status of the requester R-A or R-B includes not available. Examiner did not really rely on Yacenda et al. to disclose the underlying system on which the method operates. Yacenda et al. discloses that a requester disconnects from the system, and thus is unavailable because he/she is no longer in the queue waiting to connect with the second party. Therefore, there is reasonable expectation of success that if a caller hangs up from the call center of Gisby et al. based on the teachings of Yacenda et al. that the caller will be viewed as unavailable to the agent. Applicant has not responded to why Examiner's arguments would not be the case, and therefore Examiner maintains her assertion. Further, examiner notes that, in the claims, the user being unavailable results in no real-time meeting. Thus, the user hanging up, such as in Yacenda et al., would result in no meeting, consistent with the claims.

In response to argument (6), Examiner disagrees. It is noted that the features upon which applicant relies (i.e., a specific type of communication mode) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Examiner again notes that Appellant provides definitions as evidentiary support for the argued terms from dictionaries and encyclopedias. It is noted that these references post date the filing date of this application (See pages 37-38 of the Appeal Brief).

Examiner maintains that the term poll means to survey (ie check, assess, or examine) in the broadest reasonable interpretation of the term. Therefore, claims 3 and 5 recite that the system is surveyed, checked, or examined to determine the availability of the target. The claim

contains no recitation of any specific hardware, software, or functionality utilized to perform such polling. Gisby et al. teaches an application that monitors or reviews or assesses or surveys real-time information concerning the availability status of the agents in column 5, lines 5-11.

In response to argument (7), Examiner disagrees. Examiner again notes that Appellant provides definitions as evidentiary support for the argued terms from dictionaries and encyclopedias. It is noted that these references post date the filing date of this application (See pages 40 of the Appeal Brief).

Claim 4 recites that the system of the target T-A pushes the availability status of target T-A to the decider system (whereas claim 6 is broader and states that the system of a party pushes the party's availability status to the decider system). Gisby et al. teaches in column 5, lines 5-11, column 7, lines 1-15 and 30-50, that the system knows if the target is busy based on status information established by the target. See also column 4, line 10-17, wherein the agent is judged available by being logged into the system, and thus the system of the agent is contacting the system by logging the agent in.

In response to argument (8), Examiner disagrees. Examiner does not agree that the limitations of claim 78 require that a caller is a party to more than one request. Rather, to the contrary, the claim asserts that the requester R-A or R-B is a non-common requester. Further, claim 78 states "wherein a non-common requester R-A or R-B is party to another, distinct meeting request". Thus, the claim states that the requests of R-A and R-B are separate and distinct. See figures 2-3, column 3, lines 1-20, column 5, lines 20-40, column 6, lines 35-45, column 7, lines 1-15 and 35-50, wherein a second request for an agent is received, the request is

queued, and wherein a queue of callers requesting an agent is formed. Thus, R-A and R-B are separately in the queue.

In response to argument (9), Examiner respectfully disagrees. Claim 84 recites, dependant from claim 1, "wherein the target is a specific individual selected by the requester". First, examiner notes that it is unclear specially to which requester the claim is referring. Further, it is not clear where in claim 1 the request occurs or how it impacts the recited method, beyond that in step 1 that the request of R-A would be for a specific T-A, and the meeting would be queued as such (or in step 6 that the request of R-B would be for a specific T-B, and the meeting would be queued as such). Examiner agrees with Applicant that Gisby et al. does not teach specifying a specific target. However, it is old and well known in the telephone art for a calling party to request a specific individual when placing a call to a second organization, such as when a person calls a company and asks to speak with a certain manager. For example, when one calls any automated call center, one can dial a specific extension for a known party and then be queued, or can simply choose a department to route the call to. This, in combination with the teachings of Gisby et al., would meet the claim limitations of claim 84.

In response to argument (10), Examiner respectfully disagrees. Claim 56 recites that an availability status of the target T-A is displayed on the requester system, along with an indication that the requestor has requested a meeting with the target. In claim 56, it is not required that the user has specified a specific target (such as by name), but rather in the broadest reasonable interpretation the user would merely requested or asked for a meeting with some target and is waiting for the meeting to occur. Claim 57 specifies that the availability status is in, out, or unknown. Specifically, Gisby et al. teaches an availability status of the target T-A in at least

column 3, lines 1-15, column 4, lines 55-54, column 5, lines 5-10, column 6, lines 37-44, column 7, lines 1-20 and 39-55, which discusses availability. Gisby et al. specifically discloses that the requester is present/available and further discusses status information about a logged in agent. See column 5, lines 5-11, wherein the system knows if the target is logged in. See also column 7, lines 1-10 and 30-57, which discusses further status information about a logged in agent. Thus, the requester requests a meeting with an agent (ie the target) and is queued. Examiner notes that in Gisby et al., the user is queued with a specific target known by the system, whether or not the requester is aware of this target.

Vaios teaches displaying an availability status of the target T-A on the requester system, along with an indication that the requestor has requested a meeting with the target. See abstract, figure 2, column 4, lines 8-15, 35-58, column 5, lines 19-29, 38-39, and 53-67, where Vaio expressly discloses the requester side of these systems, wherein the requester may view status and other information about agents. Thus, the combination of the teachings of Vaio with the teachings of Gisby et al. meets the limitations of claims 56 and 57. Further, there is reasonable expectation of success because one would be able to combine the requester side of the system with the teachings of Gisby in order to produce predictable results.

In response to argument (11), Examiner respectfully disagrees. Vaio teaches that the requester has two or more real-time meetings in the queue, and thus is a common party in the multiple meetings. See abstract, column 4, lines 8-15, 43-58, column 5, lines 19-29 and 53-56, of Vaio which teaches multiple requests to multiple agents are queued by the same requester system. Examiner is not clear how this does not meet the limitations of claim 83, which requires the same requestor to be a party to multiple meetings (M-A and M-B). Examiner notes that

Appellant argues that the “claim is only anticipated if each and every [...]” on page 47 of Appeal Brief and reminds Applicant that this claim was rejected under 35 USC 103.

In response to arguments (12) and (14), Examiner respectfully disagrees. Vardi et al. discloses teaches the requestor R-A participates in another distinct real-time meeting while waiting for the real-time meeting M-A in at least column 7, line 50-column 8, line 5, wherein the requestor involves himself in another meeting while waiting for the other target to conference in. As the parties are different and the meeting occurs at a different time, the meeting is distinct.

In response to argument (13), Examiner respectfully disagrees. Yacenda et al. discloses that the requestor (who called an unavailable target party) leaves his/her number for callback and then when the target party becomes available, the requestor is no longer available (and thus his/her status is unavailable) (See figures 24 and 24B, column 17, line 55-column 18, line 5, and column 19, lines 32-55, wherein a callback function is indicated, the party to be called back (the requester) is unavailable, and the meeting does not occur until both parties are available. However, since Yacenda et al. does not expressly discuss states changing from not available to available while waiting, Vardi et al. was relied upon to disclose the state of parties changing while waiting for a meeting, beginning with being unavailable and ending available (See column 7, line 50-column 8, line 5, wherein the conference member is unavailable and becomes available).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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